



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

## Petition to Determine Succession to Real Property (Prob. Code §13150)

DOD: 8/1/15		JACKIE EILEEN LEE, Daughter, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS:
		40 Days since DOD	<u>Minute Order 2/22/16:</u> Mr. Rindlisbacher will file a substitution form forthwith; he requests a continuance and indicates that they may be able to settle the matter.
		No other proceedings	
Cont'd from: 110215, 010416, 022216		I&A: \$95,160.00 (\$60.00 cash plus a 100% interest in real property located at 3949 E. Lowe in Fresno and two vehicles)	<u>Note:</u> Objection was filed 12/29/15.
	Aff.Sub.Wit.		
✓	Verified		<u>SEE ADDITIONAL PAGES</u>
✓	Inventory		
	PTC		Will dated 12/8/09 (witnessed 1/19/10) is a California Statutory Will that devises the residence as a specific gift to Petitioner Jackie Eileen Lee, \$20.00 each to Michael Lee, Todd Lee, Willie Lee, Jr., Billy Lee, and Edward Lee, and the balance to Jackie Eileen Lee.
	Not.Cred.		
✓	Notice of Hrg		Petitioner requests Court determination that the real property passes to her pursuant to the Decedent's will.
✓	Aff.Mail	w/o	
	Aff.Pub.		Petitioner filed a Declaration on 11/2/15 in response to Examiner Notes. Petitioner states if the Court requires a filing fee, Petitioner requests she be allowed to make payments. Petitioner states the Examiner Notes are incorrect and that §13151 allows a successor to petition re the real property only without succession to personal property, and Petitioner purposely did not include any request for succession to the personal property. Those entitled to personal property can use an affidavit under §13100 to collect the personal property. No court order under this section is required. Petitioner states she has submitted a declaration regarding efforts to try to locate addresses for the missing heirs. (See Declaration filed 10/15/15.)
	Sp.Ntc.		
	Pers.Serv.		Objection to Petition to Determine Succession to Real Property Due to Lack of Proper Execution of Will and Failure to List All Assets on Inventory was filed 12/29/15 by Curtis Lee, Edward Lee, Matthew Lee, Michael Lee, and Donald Eugene Lee, children of Willie Lee and intestate heirs. <u>SEE ADDITIONAL PAGES.</u>
	Conf. Screen		
	Letters		Reviewed by: skc
	Duties/Supp		
✓	Objections		Reviewed on: 4/19/16
	Video Receipt		Updates:
	CI Report		Recommendation:
	9202		File 15 – Lee
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

## Page 2

**Objection states** the document purported to be the Last Will and Testament of Decedent was not executed in the manner and form required by law. Specifically, the attestation clause contains a different date than the date of execution of the Will. Objector Curtis Lee questioned one of the subscribing witnesses, Denise Sheets, about the reason for the different dates and was told that Ms. Sheets never saw the decedent sign the will. Instead, she said that Jackie Lee presented her with a copy of the executed will and asked her to sign it as a witness. Ms. Sheets told Curtis Lee that Jackie was hounding her to sign the document, and she said she finally signed it so she would stop. See attached statement from subscribing witness Denise Sheets.

Objectors state the decedent had a good relationship with his children and he expressed several times to Curtis that he wanted Curtis to make sure his estate was divided equally. In fact, he had a Will prepared while he resided with Curtis putting that desire in writing. Objectors are aware that this prior will still exists because at the hospital on the day the Decedent died, Petitioner had it with her. Despite the fact that the Decedent mentioned that he wanted to make sure everyone received equal parts of his estate, in paragraph 4 of the Will, under specific gifts of cash, the Decedent lists only \$20 to be given to Michael Lee, Todd Lee, Willie Lee, Jr., Billy Lee, and Edward Lee (that is all the space that was provided in the Will for specific gifts of cash). Objectors find it strange that the Decedent did not name Curtis Lee and Donald Eugene Lee to receive \$20 also because he had a good relationship with them.

Objectors state it should also be brought to the Court's attention that the Decedent could not read or write, and it seems that the names appearing on the Will form were not written by the Decedent, including his signature.

Objectors take exception to the statement on the Declaration of Due Diligence that "My brothers were estranged from our father even though he had the same telephone number and lived in the same house from when he bought it until he died," because the Objectors saw him and spoke with him regularly.

Objectors state the Decedent also owned voluminous Hot Wheels and NASCAR model car collections that spanned the length and width of the walls of his dining room and had more unopened boxes in the spare room, in good condition. He enjoyed collecting and according to Michael Lee, who works in retail sales and has knowledge of values, the collections were worth approx. \$30-40,000. Neither collections were mentioned in the Petition to Determine Succession. Objectors know the Hot Wheels collection was still in the decedent's possession when he died because when the family was at the hospital talking about arrangements, Petitioner said they could sell some of the Hot Wheels for expenses if necessary.

Objectors are also aware of a safe deposit box maintained by the Decedent. The inventory does not disclose its contents.

**Objectors pray as follows:**

1. **That the petition of Jackie Eileen Lee to determine succession be denied;**
2. **That Jackie Eileen Lee be denied appointment as a personal representative;**
3. **For an order deeming the purported Will of Decedent dated 12/8/09 invalid and ordering that the Decedent's property pass pursuant to the laws of intestate succession;**
4. **For an order requiring Jackie Eileen Lee to account for all of Decedent's belongings;**
5. **For costs of suit; and**
6. **For any other relief that the court considers proper.**

## Page 3 – NEEDS/PROBLEMS/COMMENTS:

1. **The instant petition is a summary proceeding, which, in determining succession to real and personal property pursuant to a will, necessarily includes a determination as to the validity of the will, even if the will is not technically probated. However, there is no provision for contesting a will in this type of summary proceeding. Because there is now an Objection filed that questions the validity of the will, it does not appear this matter can go forward as a summary proceeding. If Petitioner or Objections wish to pursue the matter, a probate estate may need to be opened and a personal representative may need to be appointed pursuant to Probate Code §8000. See §8250 re contest of will.**

If this matter goes forward, the following issues remain noted:

2. **Examiner Notes previously stated:** This petition was filed with a fee waiver. If assets are distributed pursuant to this petition (Estate value \$95,160.00), the filing fee of \$435.00 will be due prior to distribution. ***Declaration filed 11/2/15 requests to be allowed to make payments.***
3. **Examiner Notes previously stated:** The I&A includes cash, real property, and two vehicles. Attachment #11 requests only that the real property pass to Petitioner pursuant to the will. However, this leaves the cash bequests and vehicles outstanding. In this type of summary proceeding, all successors in interest must petition together for determination of the assets they are entitled to, and determination is made in one order. Assets cannot be left outstanding.

Therefore, an amended petition together with Michael Lee, Todd Lee, Willie Lee, Jr., Billy Lee, and Edward Lee may be necessary.

Alternatively, the Court may accept written receipts from the above people for their \$20 bequests.

**Declaration filed 11/2/15 states** the above Examiner's Note misstates the law and is incorrect. Probate Code §13151 states only the successor to a particular item of property that is real property needs to petition the court. This petition may include personal property, but that is not required. Petitioner is only the successor to the real property which is specifically devised to her. She purposefully did not include any request for succession to any item of personal property. Those entitled to personal property can use an affidavit under §13100 to collect the personal property. It is not required to be included in this petition.

**Examiner's Note:** Examiner is not aware of any authority for leaving known, inventoried assets outstanding and granting only succession to the real property, as Petitioner suggests. Here, the bank account and two vehicles\* (\*see #3 below) have been inventoried and as such are before the Court.

4. **Upon further review:** Item No. 3 of the I&A Attachment No. 2 is not actually a vehicle, but rather appears to be a loss claim on a vehicle with the loss dated 1/29/15 (after the decedent's death). Need clarification regarding this inventory item. Note that the Inventory and Appraisal should provide date of death values for all assets.
5. **Petitioner's Declaration filed 11/2/15 states** she does not, and is not required to, request determination of succession to any of the personal property assets. However, Examiner notes that pursuant to the will, Petitioner is the successor to both the real and personal property. Therefore, need authority for specifically omitting known, inventoried assets that would pass to this petitioner under the will from this petition and order.

## Page 4 – NEEDS/PROBLEMS/COMMENTS (Cont'd):

6. **Petitioner states** the addresses of the following relatives, one of whom is an heir, are unknown: Billy Lee, Jr., and Bertha Louise Lee. As noted above, the Court may require all heirs to participate in the petition, or may require a receipt from Billy Lee, and may require notice to Billy Lee and Bertha Louise Lee. ***Declaration filed 11/2/15 refers to Declaration of Due Diligence filed 10/15/15.***
7. **“Eddie Lee” is the second named Alternative Executor. Is this the same person as “Edward Lee,” who is a beneficiary of a cash bequest under the will?**